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EXAMINER

STAICOVICI, STEFAN

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/070,250

Applicant(s)

KRIEKEN ET AL.

Examiner

Stefan Staicovici

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 25 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/4/02.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities:
  - the original specification does not include headings;
  - the original specification includes references to claims. The references should be either deleted or the entire claimed subject matter of each respective claim be included in the original specification.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-12, 15, 17 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the limitation of "a second grid, which is *comparable to* and *preferably equal* to the first grid" (emphasis added) is unclear as to which aspects of the texture Applicants are referring to be comparable and equal. Claims 2-12 are rejected as dependent claims. Further clarification is required.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim

does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 15 recites the broad recitation "part of a consumer article", and the claim also recites "in particular a product manufactured by injection molding" which is the narrower statement of the range/limitation.

In claim 17, it is unclear whether the claim is a process claim or a product claim. Further, the limitation of "at least as far as necessary" is indefinite because it does not include an metes and bounds. Claim 18 is rejected as a dependent claim.

Claims 2-12 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because of the multiple dependencies of the claims. For example, claim 10 depends on any preceding claim. Assuming that claim 10 depends from claim 6, it is unclear how the laser ablation of claim 6 and the molding tool of claim 10 are used in conjunction to form the texture. Further clarification is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-2, 8, 10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 09193245.

Regarding claims 1-2 and 8, JP-A-09 193245 teaches the claimed process of making a texture on a plastic film including, embossing a first pattern and a second pattern onto the surface of said plastic film, said first and second patterns overlapping. It is submitted that an embossing pattern includes rows and columns.

In regard to claim 10, JP-A-09 193245 teaches an embossing tool.

Specifically regarding claim 13, JP-A-09 193245 teaches a plastic film having a textured surface, said texture being formed by a plurality of overlapping patterns. It is submitted that a pattern includes rows and columns.

6. Claims 1-2, 6-9, 13 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Baumgart *et al.* (US Patent No. 6,013,336).

Regarding claims 1-2 and 16, Baumgart *et al.* ('336) teach the claimed process of making a textured surface including, laser ablating a first pattern and a second pattern onto the surface, said first and second patterns overlapping and having rows and columns (see col. 4, lines 43-54 and col. 5, lines 43-51).

In regard to claims 6-9, Baumgart *et al.* ('336) teach using laser ablation to form said texture (see col. 4, lines 43-54). Further, Baumgart *et al.* ('336) teach that that the ablation includes patterns of overlapping grids (see Figure 1D) built from point shaped deformations having a central depression surrounded by an upraised edge (see Figure 1B).

Specifically regarding claim 13, Baumgart *et al.* ('336) teach magnetic disk having a laser textured surface, said texture being formed by a plurality of overlapping patterns having rows and columns (see col. 4, lines 43-54 and col. 5, lines 43-51).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baumgart *et al.* (US Patent No. 6,013,336) in view of Arita *et al.* (US Patent No. 5,928,759).

Baumgart *et al.* ('336) teach the basic claimed process as described above.

Regarding claim 12, although Baumgart *et al.* ('336) teach laser ablation, Baumgart *et al.* ('336) do not teach a gaseous protective cover. Arita *et al.* ('759) teach a laser ablation process under an inert gas atmosphere for forming a texture on a magnetic disk (see col. 15, lines 24-33). Therefore, it would have been obvious for one of ordinary skill in the art to have provided an inert gas atmosphere as taught by Arita *et al.* ('759) in the laser ablation process of Baumgart *et al.* ('336) because, Arita *et al.* ('759) specifically teach that an inert gas atmosphere provides improved protection to the magnetic disk, hence enhancing product quality and also because both references teach similar end-products, processes and materials.

9. Claims 1, 10-11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata *et al.* (US Patent No. 6,127,017) in view of Baumgart *et al.* (US Patent No. 6,013,336).

Hirata *et al.* ('017) teach a process for making a magnetic disk having a texturized surface, including providing a mold cavity having a texturized surface and injection molding a material into said mold cavity to form a texturized surface said magnetic disk (see col. 6, lines 5-50 and col. 10, lines 5-8).

Regarding claims 1, 10 and 13, although Hirata *et al.* ('017) teach a texturized magnetic disk, Hirata *et al.* ('017) do not teach the type of texture. Baumgart *et al.* ('336) teach a functioning magnetic disk having a textured surface, said texture being formed by a plurality of overlapping patterns having rows and columns (see col. 4, lines 43-54 and col. 5, lines 43-51). Therefore, it would have been obvious for one of ordinary skill in the art to have provided a texture having a plurality of overlapping patterns with rows and columns as taught by Baumgart

*et al.* ('336) to the mold in the process of Hirata *et al.* ('017) because, Baumgart *et al.* ('336) teach that such a texture is required for a magnetic disk to achieve optimum functionability, whereas Hirata *et al.* ('017) teach a texturized magnetic disk, hence requiring such a texture to function as described.

In regard to claims 11 and 14, Hirata *et al.* ('017) teach a texturized injection mold disk (see col. 6, lines 5-50 and col. 10, lines 5-8).

Specifically regarding claim 15, Hirata *et al.* ('017) teach a texturized injection molded disk (see col. 6, lines 5-50 and col. 10, lines 5-8).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Staicovici, Ph.D. whose telephone number is (571) 272-1208. The examiner can normally be reached on Monday-Friday 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianne, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished



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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stefan Staicovici, PhD



Primary Examiner

9/29/04

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September 29, 2004